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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,977	09/05/2003	Charles W. Boettcher	29250-001054/US	5646

7590 06/14/2007  
HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 8910  
Reston, VA 20195

EXAMINER
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PATHAK, SUDHANSHU C

ART UNIT	PAPER NUMBER
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2611

MAIL DATE	DELIVERY MODE
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06/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/654,977

Applicant(s)

BOETTCHER ET AL.

Examiner

Sudhanshu C. Pathak

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Sept. 5<sup>th</sup>, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,11,12,16-18 and 22 is/are rejected.
- 7) ☒ Claim(s) 2,4,8-10,13-15 and 19-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Sept. 5<sup>th</sup>, 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. Claims 1-22 are pending in the application.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The single sheet disclosing the abstract further includes the title of the invention. It is suggested this be removed from the abstract sheet.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 5 & 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In regards to Claims 5 & 16, the claim discloses "...the plurality of averaging times equals at least one of two and three...", it is not clear as to this means a specified time interval i.e. two and three (msecs), or at least two or three time intervals.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 6-7, 11 (method) & 12, 17-18, 22 (apparatus) are rejected under 35 U.S.C. 102(e) as being anticipated by Eibling et al. (7,085,580).

In regards to Clams 1, 6-7, 12 & 17-18, Eibling discloses a method (apparatus) for controlling a multi-carrier amplifier (Column 2, lines 65-67 & Column 3, lines 1-3 & Column 4, lines 29-35, 52-57) {Interpretation: The reference discloses a method for controlling the power transmitted by multi-carrier amplifier in a base station} comprising: generating an aggregate scaling factor based on a plurality of averaging times selected from a power rating profile, wherein the aggregate scaling factor is used to control a multi-carrier, amplifier power level (Column 4, lines 30-41 & Column 6, lines 34-40 & Column 8, lines 1-17 & Column 9, lines 1-30 & Column 10, lines 34-36, 40-41, 62-67 & Eq. 1) {Interpretation: The reference discloses an

aggregate scaling factor for each of the traffic channel and control channels transmitted by the base station based on a plurality of averaging times selected from the power rating profile wherein the scaling factor determine the transmitted power level of the base station i.e. power amplifier} wherein the signals are wirelessly transmitted (Fig.'s 1-2, elements 122, 112 & Column 1, lines 10-13). {Interpretation: The reference discloses a wireless communications system, therefore the signals are transmitted wirelessly} wherein further the multi-carrier signal comprises signals selected from a group consisting of Code Division Multiple Access (CDMA), Universal Mobile Telecommunication Systems (UMTS), Global Systems for Mobile communications (GSM), High Data Rate (HDR), and Time-Division, Multiple Access (TDMA} signals (Column 5, lines 40-51).

In regards to Claims 11 & 22, Eibling discloses a method (apparatus) for controlling a multi-carrier amplifier as described above. Eibling further discloses adjusting at least one carrier signal power threshold by the aggregate scaling factor (Column 3, lines 20-33, 50-58); comparing the adjusted carrier signal power threshold to at least one associated pre-scaled carrier signal power (Column 3, lines 59-64; and admitting or denying a call based on results of the comparison (Column 3, lines 64-67).

***Allowable Subject Matter***

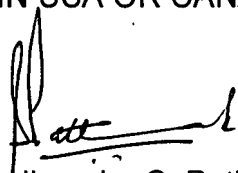
7. Claims 2-4, 8-10, 13-15 & 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, it is recommended to the applicant to amend all the claims so as to be patentable over the cited prior art of record. A detailed list of pertinent references is included with this Office Action (See Attached "Notice of References Cited" (PTO-892)).
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhanshu C. Pathak whose telephone number is (571)-272-3038. The examiner can normally be reached on M-F: 9am-6pm.  
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh M. Fan can be reached on (571)-272-3042.  
The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sudhanshu C. Pathak  
Examiner  
Art Unit 2611